

## A.12.0

### CMS Eligibility Appeals Process

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#### General

This section contains procedures for handling requests for first level supervisory review and administrative review for the CMS Program.

When a CMS case is established using the CMS IT system, all documentation or verifications used to determine eligibility to and level of coverage within the CMS Program, including CMS forms completed by the patient, eligibility staff or Appeals staff, must be imaged and saved into the CMS IT system.

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## A.12.1

### Policy

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#### General

An appeal process is a way to hear and resolve applicant/beneficiary problems and dissatisfactions in a systematic, objective, and an expedient manner. This process does not change policy; it can only ensure that policy has been followed.

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#### A. Scope of Services and Payment Issues

CMS beneficiaries have the right to make a complaint or file an appeal with the Administrative Services Organization (ASO) when they do not agree with the county's actions concerning access to medical services, quality of care, scope of services, or payment of claims. These procedures are in the ASO Complaint and Appeal Policy and Procedures Manual.

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#### B. Eligibility Determination

Applicants have the right to request a review of eligibility determination as follows:

1. Individuals who apply for and are denied CMS via a county worker at a CMS eligibility site or Hospital Outstation Services (HOS), have the right to request a first level supervisory review of the CMS eligibility determination as the first step of the appeal process.
2. If dissatisfied with the first level supervisory review decision, the applicant may file for a County Administrative Hearing. If

the applicant files for a County Administrative Hearing without first requesting a first level supervisory review, the County Hearing Officer conducts the hearing.

3. If dissatisfied with the County Hearing Officer's decision, the applicant may file an appeal with the San Diego County Superior Court.
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## **A.12.2**

### **First Level Supervisory Review**

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#### **A. Notifying the Applicant**

All CMS Notices of Action (NOA) inform applicants that they may request a First Level Supervisory Review by calling or writing CMS Eligibility. The NOAs contain the telephone number and address for CMS Eligibility. The deadline for filing the request is described in MPG Article A-12.5 below.

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#### **B. Recording the Request**

The CMS Eligibility Clerk:

- 1) Writes the applicant's name, address, telephone number, social security number (SSN) and date of the request onto the CMS First Level Supervisory Review Request Log.
  - 2) Tells the applicant that a Supervisor will call or write once the case has been received.
  - 3) Orders the case record from the last worker of record or Records Library if the application date was created prior to May 12, 2008. These case requests and subsequent case returns must be tracked, when appropriate. The clerk asks the worker to send the case within two work days after the worker receives the order. The clerk forwards the case record to the Supervisor for review upon receipt.
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#### **C. Conducting the Review**

The Supervisor:

- 1) Verifies that the request was received timely and evaluates good cause for a late filing, as appropriate. Good Cause is defined in MPG Article A-12.6 below.

- 2) Reviews the case and contacts the applicant to verify and clarify facts.
  - 3) Renders a decision within 15 work days from the date the request for first level Supervisory review was received. The Supervisor completes a First Level Supervisory Review Decision Letter (HHSA:CMS-10) in the CMS IT System and mails it to the applicant.
  - 4) Returns the case to the last worker of record to take all necessary action to certify and enroll the applicant when the decision is favorable. The supervisor will return the case to the worker by changing the case back to the worker number in the IT System. The Supervisor must record the results of the review in the case narrative prior to May 12, 2008. Any documentation used to make the final decision on case after May 12, 2008 must be imaged and saved into the case record. The supervisor will return the case to the worker by changing the case back to the worker number in the IT System.
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### A.12.3

## County Administrative Hearings

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### General

Applicants who disagree with the first level supervisory review have the right to request a County Administrative Hearing.

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### A. Notifying the Applicant

All CMS First Level Supervisory Review Decision Letters and Notices of Action (NOA) inform applicants that a County Administrative Hearing may be requested in writing or by phone and contain the telephone number and the address of the GR/CMS Calendar Clerk. The deadline for filing the request is described in MPG Article A-12.5 below. Where the applicant either does not speak English or is unable to effectively communicate in English because it is not his/her native language and his/her native language is a **threshold language**, the Notice of Hearing date is provided in the applicant's native language. A threshold language is defined as the native language of a group who comprises five percent or more of the people served by the CMS Program. **(Refer to A-1-6B for definition of threshold language.)**

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**B.  
Recording the  
Request**

The GR/CMS Calendar Clerk schedules the hearing and orders the case record for the County Hearing Officer. Prior to May 12, 2008, these case requests and subsequent case returns must be tracked, when appropriate. With the implementation of the CMS IT System, the appeals workers will be able to view the case electronically.

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**C.  
Conducting the  
Hearing**

The County Hearing Officer conducts a hearing, and within 15 work days renders a written decision and notifies the applicant. The hearing decision is attached to the case record and sent to the Manager of the last CMS worker of record. Copies of all hearing decisions are sent to the CMS Eligibility Clerk at O557E.

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**D.  
Authorized  
Representative  
(AR) at the  
hearing**

Applicants may designate an AR for hearing purposes. Such designation must be made in writing, and the designation must be signed and dated by the applicant on or after the date of the action or inaction with which the applicant is dissatisfied.

If the applicant wants to designate an AR to accompany and assist with all aspects of the hearing process, the applicant and AR must sign and date the Appointment of Representative form MC 306/MC 306(SP) or any other written statement to that effect at any time during the application process.

If the applicant is or is not present at the hearing and wants to designate an AR to act on their behalf with all aspects of the hearing process, they must sign and date the Authorized Representative form DPA 19/DPA 19(SP) or any other written statement to that effect on or after the date of the action or inaction with which the applicant is dissatisfied. DPA 19/DPA 19 (SP) or any other written statement to that affect will only be recognized through the hearing/appeals process.

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**E.  
Interpreters at  
the Hearing**

A hearing officer will not proceed without an interpreter in cases in which the applicant cannot effectively communicate in English because it is not his/her native language, and his/her native language is a **threshold language**. Where the hearing officer determines that an interpreter is necessary and cannot be obtained the hearing will be postponed. In order to assist the applicant during the hearing, the County will provide either a

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bilingual interpreter who has passed the technical portion of the County's bilingual proficiency evaluation, or an interpreter who is certified by the state, federal government or by the California Department of Social Services. In cases where the County provides a bilingual employee to serve as an interpreter or an uncertified interpreter, the hearing officer will:

- 1) Examine the qualifications and competency of the interpreter;
- 2) Disqualify any interpreter determined by the hearing officer not to be competent for interpretation purposes;
- 3) Assure objective interpretation by, at his/her discretion, disqualifying interpreters who are:
  - a) the applicant's relatives, friends, or an authorized representative;
  - b) county staff who participated in making the decision complained of;
  - c) the County hearing officer;
  - d) or any other individual determined by the hearing officer to be detrimental to the hearing process or having a bias or the appearance of being biased.

The hearing officer administers the following oath to the interpreter:

"Do you solemnly swear to interpret from [identify language] to English and English to [identify language] without adding to or detracting from the testimony given and further swear to respect the confidentiality of matters presented in these proceedings?"

If the person's foreign language qualifications have not been previously examined, the hearing officer will qualify the interpreter in the manner prescribed below.

- 1) In what language (and/or dialect, if applicable) do you claim to be qualified to serve as interpreter?
- 2) Can you read and write in both that language and in English?
- 3) How did you acquire your proficiency in:
  - a. \_\_\_\_\_ English
  - b. \_\_\_\_\_ (language and dialect)?

- 4) Have you had any experience interpreting for people in formal or informal proceedings?
  - 5) Have you previously acted as a(n) \_\_\_\_\_ (language) interpreter for state hearings with the Department of Social Services, hearings with the County, state or federal government, other administrative hearings, or in court proceedings? If so, how many proceedings and in what kind? Did the hearing officer or judge ever disqualify you from serving?
  - 6) Do you have any interest in the outcome of this hearing?
  - 7) Do you understand that it is your responsibility to interpret literally, adding or subtracting nothing? Do you understand that you must inform the hearing officer if you are unable to understand the words used, or keep up with the speed at which the individuals are speaking?
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## **A.12.4**

### **Monitoring Compliance**

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#### **General**

The CMS Eligibility Clerk keeps a copy and a log of all first level supervisory review and Administrative Hearing decisions received in order to monitor decision deadlines and compliance. CMS Eligibility staff completes all required actions within 30 calendar days from the decision date and sends a copy of the Notice of Action notating "First Level Supervisory Review Compliance" or "Appeals Compliance" at the top of the form to the CMS Eligibility Clerk at O557E.

A. The CMS Eligibility Clerk updates the appropriate log with the information received.

B. If there are extenuating circumstances which keep the worker from meeting the deadline imposed per a first level supervisory review decision, the worker must contact the supervisor to request an extension. If the worker is unable to meet the deadline imposed per a County Administrative Hearing decision, the worker must notify their supervisor who, in turn, notifies the Eligibility Clerk in writing, stating the reason for the delay and the date action is expected to be taken. The Eligibility

Clerk records the extension and reason on the appropriate compliance log. The worker records verification of the extension in the case narrative.

- C. The Eligibility Clerk will notify the Supervisor of any hearing decisions that have not met the compliance deadline. The Supervisor takes action necessary to be sure the worker is able to comply with the decision.
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## **A.12.5**

### **Filing Deadline**

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#### **General**

The applicant's request for a first level supervisory review must be received within 14 calendar days after the date of the denial Notice of Action (NOA). The applicant's request for County Administrative Hearing must be received within 14 days from the date of the first level supervisory review Decision Letter or within 14 days from the date of the denial NOA if a first level supervisory review was not requested.

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## **A.12.6**

### **Good Cause For Late Filing**

#### **General**

The CMS Supervisor or the County Hearing Officer will evaluate Good Cause when the applicant requests a first level supervisory review or a County Administrative Hearing after the filing deadline. If Good Cause exists for late filing, then the first level supervisory review or a County Administrative Hearing is conducted. If Good Cause does not exist, the applicant is informed in writing that there is no jurisdiction to review or hear the case and shall be informed of his/her appeal rights. The final decision of the good cause evaluation must be recorded in the case narrative.

Good Cause shall include:

- A. An evaluation of relevant circumstances including the applicant's physical, mental, educational, literacy or linguistic limitations;
- B. Adequate notice not provided. Adequate notice is defined as a written notice informing the applicant of the action the

County intends to take, the reason for the intended action, the specific regulations supporting the action, and an explanation of the applicant's right to request a first level supervisory review or a County Administrative Hearing;

- C. Verification that sufficient time to respond was not possible because the notice was delayed or not received by the complainant; and/or
  - D. In addition to the above, examples of Good Cause include, but are not limited to, a bonafide good faith effort in complying with the appeal procedures.
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